In the High Court of Judicature at Madras

Dated: 01.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Appeal No.2648 of 2002

P. Rama ..Appellant

..vs..

1.The Secretary to Government
Housing and Urban Development
Department, Fort St. George
Madras 600 009.

2.The Chairman
Tamilnadu Housing Board
Nandanam, Madras 600 035.

3.Tmt. R. Chellammal

4.P. Karunakaran ..Respondents

Writ Appeal is filed under Clause 15 of the Letters patent against the order of this Court dated 06.07.2001 made in W.P.No.6361 of 1998 presented to this Court under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records in GO.Ms.No.2031 Housing and Urban Development Department dated 31/12/1987 of the Ist Respodnent and to quash the same and direct the Ist Respondent to allot and sell the Vacant Site adjacent to Plot No H.21, 97th Street, 15th sector, K.K. Nagar, Madras 600 078 in favour of the petitioner's daughter P. Rama who is the present owner of the said premises.

WEB COPY

For appellant : Mr. M. Sureshkumar

For Respondents : Mr. S. Kasikumar
for Mr. K. Chelladurai for R.2
Mr. P. Subramanian
Government Advocate for R.1
No appearance for R.3 & 4

..

https://hcservices.ecourts.gov.in/hcservices/

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned single Judge dated 06.07.2001 made in W.P.No.6361 of 1998. The learned single Judge, disposed of the said writ petition along with W.P.No.1278 of 1988.

2. Heard the learned counsel for the appellant as well as respondents respondents 1 and 2. Third respondent, R. Chellammal though duly served notice in this appeal, has not chosen to contest the appeal by engaging a counsel. Likewise, 4th respondent is represented by counsel Mr. P.G. Padmanabhan, he failed to turn up.

3. The only question to be considered in this appeal is, whether the first respondent, Government is justified in allotting a vacant site adjacent to Plot No.H-21 in favour of R. Chellammal, third respondent herein?

4. According to the petitioner/appellant, she purchased Plot No.H-21 from one P. Karunakaran, 4th respondent herein. It is also stated that both the said Karunakaran as well as the present appellant made representation to the Government for allotment of the vacate site adjacent to Plot No.H-21. However, the fact remains no order has been passed accepting their request, though the Tamil Nadu Housing Board recommended the said request.

5. By the impugned proceedings dated 31.12.1987, the first respondent, after considering all the aspects, allotted the vacant site adjacent to Plot No.H-21 in favour of R. Chellammal, subject to approval by Madras Metropolitan Development Authority and also subject to usual terms and conditions prescribed by the Tamil Nadu Housing Board in its Allotment Rules. The said order came to be challenged by the petitioner in W.P.No.6361 of 1998. The learned Judge, after finding that the writ petition came to be filed after 10 years of the order by the Government and also taking note of the fact that the Government exercised its power and allotted the vacant site in favour of third respondent - R. Chellammal, the same cannot be interfered by this Court, dismissed her writ petition.

WEB COPY

6. The learned counsel appearing for the appellant submitted that in in view of the representation of the appellant and also of the fact that the vacant site is adjacent to Plot No.H.21, it is but proper on the part of the Government to consider her request and the allotment made in favour of the third respondent is not justified. The very same contention was raised before the learned Judge, we are of the view that though the vacant site is adjacent to Plot No.H-21, which belongs to the appellant, there is no compelling circumstance to allot the same in favour of the appellant as

https://hcservices.ecourts.gov.in/hcservices/

claimed. It is not in dispute that the Government is the authority to allot the vacant site, however, the learned counsel appearing for the Housing Board has brought to our notice that from the date of the Government Order, viz., 31.12.1987, the allottee, viz., third respondent, R. Chellammal has not claimed the same or no action was taken for passing orders in favour of her as directed the Government. The learned counsel further submits that in view of the inaction or attitude of the allottee R. Chellammal, the Housing Board has assigned number to the vacant site as Plot No.34-A1, measuring 764 sq.ft. and according to him steps are being taken for sale of the plot by way of public auction after getting approval from the Government. In such circumstances, we are of the view that there is no need to go into the validity in the order dated 31.12.1987 in G.O.Ms.No.2031 Housing and Urban Development Department. However, the petitioner/appellant is permitted to make a representation to the Government to vindicate her grievance if any within a period of two weeks from the date of receipt of copy of this order. If any such representation is made within the time prescribed above, the first respondent Government is directed to consider and dispose of the same within a period of eight weeks thereafter. It is made clear that we have not expressed anything on the merits either with regard to the claim of the petitioner/appellant or the power of the Government. In other words, Government is free to take appropriate decision.

With the above observation, the writ appeal is disposed of. No costs.

kh

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar.

To

1.The Secretary to Government
Housing and Urban Development
Department, Fort St. George
Madras 600 009.

2.The Chairman
Tamilnadu Housing Board
Nandanam, Madras 600 035.
+ One cc to the Govt Pleader SR 6124
+ One cc to K. Chelladurai Advocate SR 5859
TS (co)
sg 8/2/07

Writ Appeal No.2648/02
Dt.01.02.2007

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/